

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 3685-02
BILL NO.: HCS for HB 1619
SUBJECT: Department of Natural Resources; Surface Mining Permits
TYPE: Original
DATE: March 22, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue Fund		(\$178,223) to (Unknown)	(\$176,295) to (Unknown)
	\$0		
Total Estimated Net Effect on <u>All</u> State Funds	\$0	(\$178,223) to (Unknown)	(\$176,295) to (Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** and the **Office of the Attorney General** assume their agencies would not be fiscally impacted by this proposed legislation.

Officials from the **Department of Natural Resources** (DNR) assumes currently Section 444.773.3 RSMo allows the Department to hold a public hearing only if a person's health, safety or livelihood is affected by noncompliance with any applicable laws or regulations. The Department has received numerous requests for public hearings throughout the years, but have denied these requests in accordance with the present statutory criteria (allowing a hearing only if noncompliance affects a person). The Department has held only one hearing related to a surface mining permit.

The proposed legislation grants a public hearing, as defined by Chapter 536 RSMo, if requested by any interested person. The Department assumes the proposed legislation would apply to any permit action which would meet the public notice requirements. The Department averages approximately 60 new applications per year; last calendar year the Department received 70 new applications. We estimate that at least one-half of these applications will result in a public hearing.

Due to the sensitive nature of these public hearings, the Department assumes a hearing officer will be needed for each of these public hearings, resulting in legal expenditures of approximately \$3,800 per hearing. The Department has included these costs for approximately 30 public hearings. The Department does not have the necessary resources to implement the proposed legislation. In addition, if the actual number of public hearings exceeds these projections or the costs for the public hearings exceeds our estimate, the Department may need to request additional resources.

The current statutes state that any decision of the commission made pursuant to a hearing is subject to judicial review. However, due to the sensitivity of the new criterion for public hearings, the Department assumes there would be an increase in the number of permits going through the permit appeals process and judicial review. DNR noted that the number of permit appeals and the associated costs are unknown.

The Department will request one Land Reclamation Specialist to investigate requests for the public hearings, gather information concerning requests, schedule the public hearings, present and verify such evidence before the hearing officer and then communicate findings to the Land Reclamation Commission.

ASSUMPTION (continued)

When the current fee structure for surface mining permits was established, a component for the increased criteria for public hearings was not included. Therefore, a modification to the fee structure or general revenue would be required to cover these costs. Since the fee structure is not modified in this proposal, general revenue will be requested.

DNR requested a Land Reclamation Specialist II in an identical proposal from the 1999 session. Under the proposed legislation for the current session, the Department has requested a Land Reclamation Specialist III. **Oversight** has adjusted DNR's personal services expense for the Land Reclamation Specialist III based on the salary that would have been submitted in their 1999 fiscal estimate if they would have asked for a III position and added 1%. Oversight also adjusted the annual DNR expenses for professional positions, with travel, to be \$5,400 per employee. These computations are based on projections of annual expenses received from other state agencies. Additionally, Oversight has adjusted DNR equipment expenses to conform with Office of Administration guidelines.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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GENERAL REVENUE FUND

<u>Cost - Department of Natural Resources</u>			
Personal Service (1 FTE)	\$0	(\$36,611)	(\$37,526)
Fringe Benefits	0	(\$11,258)	(\$11,539)
Expense and Equipment	0	(\$12,392)	(\$5,729)
	\$0	(\$60,261)	(\$54,794)

<u>Other Cost - Department of Natural Resources</u>		(\$117,962)	(\$121,501)
Hearing Officer Expense		_____to	_____to
	\$0	(Unknown)	(Unknown)

		(\$178,223)	(\$176,295)
		_____to	_____to
Estimated Net Effect on GENERAL REVENUE FUND	\$0	(Unknown)	(Unknown)

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

DNR noted that the proposed legislation requires the surface mine operators to post a notice in the newspaper and transmit certified letters to the governmental authority and letters to the last known addresses of all record owners of contiguous real property or real property located within one thousand feet of the proposed areas.

DESCRIPTION

This proposal makes several changes to the application process for surface mining permits.

Under current law, the applicant is required to publish a notice in a newspaper of general circulation in the local area, interested parties may submit written comments to the Department of Natural Resources or request a public hearing for 15 days after the application is filed, and the Department must forward a recommendation on the permit to the Land Reclamation Commission by the end of the public comment period. This proposal requires the applicant to publish a notice once a week for 4 weeks, beginning no more than 10 days after the application is filed. The applicant is also required to notify by mail the local governing body and property owners within 1,000 feet of the proposed surface mine. Notices must include a statement that interested parties may submit written comments to the Department or request a public hearing up to 15 days after the end of the 4-week public notice period. The Department must forward its recommendation on the permit to the commission within 4 weeks after the end of the public notice period. If a public hearing was requested, the Department will conduct the hearing within 30 days after the end of the comment period, and will make a recommendation to the commission within 15 days after the hearing.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Natural Resources
Office of the Attorney General
Office of the State Courts Administrator



Jeanne Jarrett, CPA
Director
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L.R. NO. 3685-02
BILL NO. HCS for HB 1619
PAGE 5 OF 4
March 22, 2000